

220 CMR 9.00:        COST RECOVERY FOR MAJOR ELECTRIC COMPANY  
                             GENERATION INVESTMENTS

Section

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9.01: Purpose, Scope, and Definitions

- (1)    Purpose. The purpose of 220 CMR 9.00 is to establish rules for the recovery by electric companies of the costs of major incremental investments in electric generation.
- (2)    Scope. 220 CMR 9.00 applies to major incremental investments in electric power generation facilities by electric companies made on or after the effective date of 220 CMR 9.00.
- (3)    Definitions. As used in 220 CMR 9.00, the term "major incremental investment in electric power generation facilities" means capital expenditures to construct
  - (a)    new generating plant; or
  - (b)    capital expenditures made in connection with a company's existing generating plant where such expenditures:
    - 1.    materially extend the useful life of the plant;
    - 2.    materially increase the capacity of the plant; or
    - 3.    are expected to exceed \$250,000 per megawatt of net maximum capacity to be expended during a single plant outage, or uninterrupted construction project or combination of closely related projects.

9.02: Standard for Recovery of Costs Associated with Major Incremental Investment in Electric Company Generating Facilities

- (1)    Except as set forth in 9.02(3), no electric company may recover costs associated with major incremental investment in electric power generating facilities without obtaining the prior approval of the Department pursuant to 220 CMR 9.00 for the incurrence of such costs.
- (2)    Cost recovery under the terms of a Department Order issued pursuant to 220 CMR 9.00 is, by virtue of having been approved in such an Order, proper, just and reasonable and required by the public interest, and incurred reasonably and

prudently.

- (3) Electric companies may seek recovery of costs associated with major incremental investment in electric power generating facilities without prior approval of the Department only if such expenditures are made on existing generating plant and the immediate commencement of construction activities is necessary for safety or health reasons in an emergency situation for the protection of the company's investment in existing plant, or is otherwise in the public interest as determined by the Department. In such a case, the company must file a petition for approval immediately upon becoming aware that such a capital project will constitute a major incremental investment in electric power generating facilities.

#### 9.03: Filing Requirements

- (1) Each electric company shall file, together with any petition for pre-approval of cost recovery under 220 CMR, the following:
  - (a) A description of the proposed new facility, or addition, life-extension, repowering, or other incremental source of utility-owned generating capacity, including size in megawatts ("MW") (both summer and winter capability ratings); technology, including major pollution control equipment and whether the plant is a cogenerator; heat rate; expected availability; expected life of plant; primary fuel and any back-up fuel(s); source(s) of fuel(s); related facilities to deliver and/or store fuel(s), to transmit power from the facility, and to reinforce the bulk power transmission system; location (including address, parcel map, zoning designation); joint or common ownership, if any; complete list of applicable state, local and federal licenses necessary for the facilities; and project schedule (including major milestones relating to licensing, financing, construction, in-service dates).
  - (b) Proposed cost recovery terms consistent with the Order in D.P.U. 86-36-C, including length of the cost recovery period, provision for treatment of construction, fuel, fixed and variable operations and maintenance and capital additions costs, and provision for treatment of costs in the event of cancellation or abandonment of the facility. Such terms must include the provision that the company is unconditionally obligated to provide the energy and/or capacity under the terms set forth in the requested Order, or their reasonable equivalent. Such terms must address the circumstances and terms in which the electric company would be allowed to fulfill the energy and/or capacity obligations under the requested Order with alternative sources.
  - (c) A demonstration of the need for the facility, and a demonstration that the construction and operation of the proposed facility pursuant to the proposed cost recovery terms will result in positive net present value benefits for ratepayers over the life of the facility, considering

quantifiable externalities, compared with reasonable alternative investments, consistent with safe and reliable electric service, diversity of supply and demand options, and reasonable protections against uncertainty of future costs and demand.

- (d) To the extent the company has chosen to solicit proposals or bids to provide the capacity and/or energy in question, the results of the solicitation shall be submitted as evidence regarding the issue of whether the proposal will result in positive net present value benefits set forth in 220 CMR 9.03(1)(c). The results of the solicitation must be accompanied by a description of the solicitation process, including eligibility to participate and criteria for selection, and a demonstration that, in the event the company chose to participate in such solicitation process in competition with other potential providers of such electricity services, the risk of bias through self-dealing was eliminated and has not affected the selection of the company's proposal as a winning proposal or bid.
- (e) Proposed organizational or accounting methods to insulate the utility's base rate cost of capital from the effects, positive or negative, of the proposed pre-approval terms.

#### 9.04: Procedure for Review

Upon the filing by any electric company of a petition for pre-approval of cost recovery under this rule, the Department shall issue an Order of Notice, directing the company to publish such notice as due process and the public interest may require, and to mail a copy of such notice to the Attorney General, the Energy Facilities Siting ~~Council~~Board, and to all persons who have stated to the Department their desire to receive such notices. The Department may hold one or more hearings on the petition, and shall issue such Order concerning pre-approval of such proposal and the terms of cost recovery as shall be just, reasonable and required by the public interest. Unless otherwise ordered, the Department shall issue such Order within eight months from the date of filing by the electric company.

#### 9.05: Exceptions

The Department may, where appropriate, grant an exception from any provision of 220 CMR 9.00.

#### REGULATORY AUTHORITY

220 CMR 9.00: M.G.L. c. 164, §§ 76, 94, 94G.